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10/526,769	12/01/2005	Richard Schneider	01013.0471.PCUS00	6944

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EXAMINER	
LE, MARK T	

ART UNIT	PAPER NUMBER
3617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/526,769	SCHNEIDER ET AL.	
	Examiner	Art Unit	
	Mark T. Le	3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-15 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-15 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the shock absorbers or dampers for damping vertical or rolling or transverse movements, recited in claims 1, 3, 4 and 9-11, must be shown or the feature must be canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. In paragraph [0008] of the specification, the reference to claim 1 should be deleted because the subject matters of the claim can be changed during the course of prosecution.

3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 8, "the rocker" lacks antecedent basis.

In claim 1, line 13, "the fixing points" lacks antecedent basis.

It is not clear as to whether the instant claimed passive or active damping member, as recited throughout the instant dependent claims, and shock absorber recited in independent claims 1 and 7 refer to the same feature or structure of the present invention.

The wordings of claim 5 are not clear.

In claim 7, lines 3-5, "the fixing hangers on the frame" and "the fixing hangers on the spring carrier" lack antecedent basis.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-6 (5 as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Nast (US 5,970,883) in view of Schneider (US 5,222,440) and Hachmann (US 6,273,002).

Nast discloses a running gear similar to that recited in the instant claims, including running gear frame 4, wheel sets, car body 5, secondary springs 5, spring carrier 3, hangers 2, and active control element 13. It is noted that Nast does not show primary springs and shock absorbers or dampers for damping movements of the car body.

As to the use of primary springs in a railway car running gear, it is well known in the art. Note for example primary springs 7 of Hachmann. In view of Hachmann, it would have been obvious to one skilled in the art to provide primary springs between the wheel sets and running gear frame 4 of Nast in the manner that is well known in the art, such as for example that is shown in Hachmann for providing primary supports for the rail vehicle.

Regarding the instant claimed shock absorbers or dampers for damping movements of the car body, Applicant should consider shock absorbers or dampers

33,33' of Schneider, which are active dampers when they are integrated with the active control shown in Figure 8 of Schneider, and which are passive without integrating with the control shown in Figure 8 of Schneider. In view of Schneider, it would have been obvious to one skilled in the art to provide shock absorbers for damping movements of the car body, similar to that taught by Schneider, in the structure of Nast so as to enhance riding quality around track curves.

Regarding the instant claimed approximate location of the intersection of the longitudinal axes of the hangers, as recited in the instant claim 2, consider Figure 4 of Nast; wherein, the location of the intersection of the longitudinal axes of the hangers appears to be similar to that of the present invention; therefore, the location of such intersection is readable as being at least "approximately" at the height of the center of gravity of the car, as broadly claimed. On the other hand, it would have been obvious to one skilled in the art to slightly adjust the angles of the hangers and/or the spacing between the hangers of Nast so as to optimize stability in accordance with the expected track curvature, speed and load of the rail vehicle as such adjustment is reasonably within the scope of teaching of Nast.

Regarding the active control element being an electrical, hydraulic or pneumatic control device, it is noted that Nast does not specifically specify whether control element 13 is operated electrically, pneumatically or pneumatically; however, it is certainly would have been obvious to one skilled in the art to select any one of such well known means (Official Notice is taken) for operating control device 13 of Nast for achieving the expected performance thereof.

6. Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nast (US 5,970,883) in view of Schneider (US 5,222,440).

Nast discloses a running gear similar to that recited in the instant claims, including running gear frame 4, wheel sets, car body 5, secondary springs 5, spring carrier 3, hangers 2, and active control element 13. It is noted that Nast does not show shock absorbers or dampers for damping movements of the car body.

Regarding the instant claimed shock absorbers or dampers for damping movements of the car body, Applicant should consider shock absorbers or dampers 33,33' of Schneider, which are active dampers when they are integrated with the active control shown in Figure 8 of Schneider, and which are passive without integrating with the control shown in Figure 8 of Schneider. In view of Schneider, it would have been obvious to one skilled in the art to provide shock absorbers or dampers for damping movements of the car body, similar to that taught by Schneider, in the structure of Nast so as to enhance riding quality around track curves.

Regarding the instant claimed approximate location of the intersection of the longitudinal axes of the hangers, as recited in the instant claim 8, consider Figure 4 of Nast; wherein, the location of the intersection of the longitudinal axes of the hangers appears to be similar to that of the present invention; therefore, the location of such intersection is readable as being at least "approximately" at the height of the center of gravity of the car, as broadly claimed. On the other hand, it would have been obvious to one skilled in the art to slightly adjust the angles of the hangers and/or the spacing between the hangers of Nast so as to optimize stability in accordance with the expected

track curvature, speed and load of the rail vehicle as such adjustment is reasonably within the scope of teaching of Nast.

Regarding the active control element being an electrical, hydraulic or pneumatic control device, it is noted that Nast does not specifically specify whether control element 13 is operated electrically, pneumatically or pneumatically; however, it is certainly would have been obvious to one skilled in the art to select any one of such well known means (Official Notice is taken) for operating control device 13 of Nast for achieving the expected performance thereof.

7. Claims 1-15 (5 as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (US 5,222,440) in view of Nast (US 5,970,883).

Schneider (Figure 1) shows a running gear for a rail vehicle including car body 1, cradle 8, secondary springs 18, running gear frame 12, transverse damping members or shock absorbers 33,33', which are active dampers when they are integrated with the active control shown in Figure 8 of Schneider, and which are passive without integrating with the control shown in Figure 8 of Schneider. It is noted that springs 18 of Schneider is supported directly on running gear frame 12 instead of on a floating spring carrier supported by hangers as recited in the instant claims.

Nast discloses a running gear; wherein, secondary springs 5 are mounted on floating spring carrier 3 that is supported by hangers 2 on frame 4 and controlled by control element 13.

In view of Nast, it would have been obvious to one skilled in the art modify the structure of Schneider to include a floating spring carrier system for floatingly supporting

the secondary springs, in a manner similar to that taught by Nast, so as to allow the centrifugal force to cooperate in adjusting the positioning of the car body relative track curves.

Regarding the instant claimed primary springs recited in instant claim 1, note that the use of primary springs are common in running gears of rail vehicles, i.e. the springs that are conventionally used for supporting the running gear frame on the associated rail wheel units (Official Notice is taken); therefore, it would have been obvious to one skilled in the art to use the same well known feature for supporting the running gear frame of Schneider on the associated rail wheel units.

Regarding the instant claimed approximate location of the intersection of the longitudinal axes of the hangers, as recited in the instant claims 2 and 8, consider Figure 4 of Nast; wherein, the location of the intersection of the longitudinal axes of the hangers appears to be similar to that of the present invention, and the structure of Schneider, as modified, would have hangers oriented at the similar angles as that of Nast; therefore, the location of such intersection would be readable as being at least "approximately" at the height of the center of gravity of the car, as broadly claimed. On the other hand, it would have been obvious to one skilled in the art to slightly adjust the angles of the hangers and/or the spacing between the hangers of Schneider, as modified, so as to optimize stability in according the expected track curvature, speed and load of the vehicle as such adjustment is reasonably within the scope of teaching of Nast.

Regarding the active control element being an electrical, hydraulic or pneumatic control device, it is noted that Nast does not specifically specify whether control element 13 is operated electrically, pneumatically or pneumatically; however, it is certainly would have been obvious to one skilled in the art to select any one of such well known means (Official Notice is taken) for operating control device 13 of Nast or the similar control device of Schneider, as modified, for achieving the expected performance thereof.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 571-272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Tuan Le
Primary Examiner
Art Unit 3617

mle
10/23/07